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18
19 **UNITED STATES DISTRICT COURT**
20 **EASTERN DISTRICT OF WASHINGTON**

21
22 YUKI LEE, in her capacity as
23 personal representative of the
24 Estate of her deceased husband,
25 JOOCHAN LEE, individually
and Decedent's surviving wife,
both as beneficiaries and heirs of
Decedent's estate,

26
27 vs.

28 THE MOODY BIBLE
INSTITUTE OF CHICAGO, and
Illinois corporation,

29
30 Defendant.

31
32 No. 2:19-cv-00326-SAB

33
34
35 **DECLARATION OF**
36 **COUNSEL IN SUPPORT**
37 **OF MOTION FOR**
38 **SUMMARY JUDGMENT**

39
40 *Without Oral Argument*
41 March 4, 2022

WILLIAM C. SCHROEDER does hereby declare:

1. I am over the age of eighteen, and am competent to testify to the matters contained herein, which are based upon personal knowledge. I am counsel for Defendant Moody Bible Institute of Chicago in the above-captioned matter.

2. Attached hereto as **Exhibit A** is a true and correct copy of the pertinent two (2) pages of the Rule 26 Report of Plaintiffs' expert, Peter R. Leffe, BsMe, M.Arch, ATP.

3. Attached hereto as **Exhibit B** is a true and correct copy of the Moody Aviation Flight and/or Maintenance Activities Covenant Not to Sue, Liability Release, and Assumption of Risk Agreement, signed May 9, 2018, which was Exhibit 3 to the November 19, 2021, deposition of Yuki Lee.

4. Attached hereto as **Exhibit C** is a true and correct copy of the pertinent pages of the transcript of the November 19, 2021 deposition of Yuki Lee.

I declare the foregoing to be true and correct under penalty of perjury.

DATED this 10th day of January, 2022,

KSB LITIGATION, P.S.

By: /s/ William C. Schroeder

William C. Schroeder

KSB LITIGATION, P.S.

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DECLARATION OF COUNSEL IN
SUPPORT OF MOTION FOR
SUMMARY JUDGMENT - 2

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DECLARATION OF COUNSEL IN
SUPPORT OF MOTION FOR
SUMMARY JUDGMENT - 3

EXHIBIT A

RULE 26 REPORT

OF

PETER R. LEFFE

I, Peter R. Leffe, BsMe, M.Arch, ATP, do hereby swear, testify, declare, and affirm as follows:

I was retained by Hermann Law Group of Seattle, Washington as an Aviation Accident Investigator and potential expert witness in the field of Aviation Accident Investigation and Reconstruction. The case is the Estate of Joochan Lee v. Moody Bible College of Chicago. Originally, I was retained to review records and then examine the aircraft wreckage to identify any specific signatures on the wreckage. The purpose of this was to find any possible mechanical, electrical, design or overload fault(s) that could have caused the subject accident. As a retained expert and I was asked to provide a Federal Rule of Civil Procedure Rule 26 Report which outlines and detailed all the opinions I formed regarding the subject incident.

Qualifications:

I have extensive knowledge, education, experience, training and skill in the areas of Mechanical Engineering, aviation accident investigation, accident reconstruction, aircraft construction maintenance and repair which all provide reliable foundation for each of my opinions.

Regarding my education and training, I hold the degree of Bachelor of Science in Mechanical Engineering with Metallurgy from the Indiana Institute of Technology. I am qualified to evaluate various types of mechanical systems to determine how they were designed, how they work, how they are tested and how they fail. Also, as a result of this degree, I am readily familiar with different types of forces (i.e.: tensile, compressive, torsional force, etc.) and how said forces effect different types of materials and components within mechanical systems. Finally, I am qualified to read and understand design drawings, testing materials and reports pertaining to various aircraft systems.

I have also received formal training in the area of aircraft accident investigation through the School of Engineering at the University of Southern California. This course was designed and created based upon the United States Air Force aircraft accident investigation manual, which was written by the staff at the Air Force Inspection and Safety Center.

Furthermore, from the beginning of my work on this case through the present, I have applied the scientific methodology outlined in both the USC School of Engineering Aircraft Accident Investigation course materials and upon the United States Air Force aviation accident investigation manual, while investigating this accident.

Graduates of the USC course, such as myself, are educated and familiarized with all aspects of the investigation process, starting with preparation for investigation through report writing. Investigative techniques are examined with an emphasis on fixed wing investigation. Data collection, wreckage reconstruction and cause analysis are also studied. Finally, the course also covers the National Transportation Safety Board and International Civil Aviation Organization (ICAO) procedures. This course of study is compliant with ICAO Annex 13 training guidelines for aviation accident investigators and graduates of this program are qualified to conduct aviation accident investigation in 190 countries worldwide.

It is my opinion that the cause of the crash was a bird strike.

Basis for this opinion is the NTSB factual report, my inspection of the aircraft wreckage, consultation with Dr. Banjac regarding the strength of the subject windshield, Pilots Flight Manual for the Cessna 17R aircraft, Airman's Information Manual and my education, training and experience.

The flight manual clearly outlines the consequences of a bird strike on the subject aircraft. A small hole could be plugged but with the collision with a large bird the impact force would more likely than not implode the entire windshield. It is clear that the aircraft could not maintain flight without the windshield. The total implosion of the windshield would more likely than not incapacitate the pilot and result in a loss of control of the aircraft.

The NTSB report clearly documents the bird strike with a Great American Pelican the second largest bird in North America. DNA was used to establish the type of bird and Dr. Banjac's calculations provide an understanding of the force exerted on the windshield of a single bird strike. It has been my experience observing pelicans in flight that they fly in formations to take advantage of "drafting" the leading bird. This fact could lead to a multiple bird strike or a strike at an oblique angle where the bird did not pass through the propeller and its full mass impacted the windshield.

It is my opinion upon a through physical inspection of the aircraft wreckage that there were no other probable cause(s) such as engine, propeller or control system failure that could have led or could to the crash and subsequent loss of life.

Basis of the formation of this opinion was my inspection of the aircraft wreckage the NTSB Factual Report, USC Aviation Accident Investigation training course and my general education, training and experience.

I inspected the engine or signatures associated with the catastrophic failure of the engine. The component parts, pistons, rings, cylinder wall, connecting rods, crankshaft, valves, etc., were all in excellent operational condition. As well, the loss of the engine would NOT result in a loss of control of the aircraft. The aircraft was capable of gliding approximately ten (10) miles from its flight altitude had it lost engine power.

I inspected the propeller which is a fixed pitch type with no moving parts. It was recovered in the wreckage pile and was not lost in flight.

I inspected the control cables of all flight controls. While the cables were broken those breaks could be associated with the loss of the outer sections of wing from exceeding the Vne (speed not to exceed) and Vdive (max speed in a dive equals Vne + 10%) of the aircraft.

I inspected the skin surfaces for signs of bending associated with overload failure in flight possibly due to the two ninety (90) degree turns but nothing was found.

EXHIBIT B

Moody Aviation Flight and/or Maintenance Activities
Covenant Not To Sue, Liability Release and Assumption Of Risk Agreement

EXHIBIT

3

Participant's Name: <u>Jordan Lee</u>	Participant's Student ID -OR- Driver's License Number <u>LEE J 077Q2</u>	
Emergency Contact Name (must not be participating) <u>Yuki Joy Lee</u>	Relationship <u>Wife</u>	Phone Number <u>958-366-5790</u>

I, the undersigned, hereby affirm that I am aware that flying and maintenance activities associated with them have inherent and unforeseeable risks which may result in serious injury or death. I understand and agree that Moody Aviation instructors, Moody Aviation and The Moody Bible Institute, and their respective employees, officers, agents, volunteers, contractors or assigns, and other Moody Aviation student pilots or trainees (hereinafter referred to as "Released Parties") shall NOT be held liable or responsible in any way for any injury, death or other damages to me, my family, estate, heirs or assigns that may occur as a result of or related to my participation in flying aircraft, flying in aircraft, flight instruction, aircraft rental, aircraft operations, ramp operations, maintenance or shop activities, use of hand or power tools or any associated activities involved with these activities (hereinafter referred to as "Aircraft Activities") or as a result of the negligence of any party, including the Released Parties, whether passive or active, direct or indirect.

In consideration of being allowed to participate in Aircraft Activities related to Moody Aviation, I hereby personally assume all risks of Aircraft Activities, whether foreseen or unforeseen, that may befall me while I am participating in these activities. I further voluntarily release, waive and hold harmless the Released Parties from any claim, demand or lawsuit by me, my family, estate, heirs or assigns, arising out of my participating in Aircraft Activities, including claims arising during any course of training or after I receive my pilot certification(s) or arising from being a passenger incident to Aircraft Activities, for any injuries, including death, and for any loss or damage to property related to my participating in Aircraft Activities.

I also understand that Aircraft Activities are physically demanding, and that by participating I am assuring Moody Aviation I am in good health and of sound mind. I covenant not to sue or institute any actions in law or equity against the Released Parties related to Aircraft Activities and covenant I will not hold the Released Parties responsible for events, injuries or death resulting from my physical condition, limitations or incapacitation.

I further state that I am of lawful age and legally competent to sign this Liability Release or that I have acquired the written consent of my parent or guardian. *By signing below the parent or guardian of the above participant gives permission for them to participate in the flying activities and agree to the provisions of this document.*

I further agree that if any provision of this Agreement is found to be unenforceable or invalid, that provision may be severed from this Agreement and the remainder of this Agreement shall then be construed as though the unenforceable provision had never been contained therein and to honor, as nearly as possible, the original intention of the parties.

I understand the terms herein are contractual and not merely for recital and attest that I have signed this document of my own free act and with the knowledge that I am hereby waiving legal rights and assuming risks. I have fully informed myself of the contents of this Covenant Not To Sue, Liability Release and Assumption Of Risk Agreement by reading it before I signed it on behalf of myself and my heirs.


Participant's Signature

5/19/18

Date

Parent or Guardian's Signature (if applicable)

Date

DEP EX 3

LEE, YUKI 11/19/21

18ACI071 MOODY BIBLE 000508

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EXHIBIT C

November 19, 2021

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF WASHINGTON

YUKI LEE, in her capacity as
5 personal representative of the Estate
of her deceased husband, JOOCHAN
6 LEE, individually, and Decedent's
surviving wife, and in her capacity as
7 Guardian of their minor daughter,
A.L. both as beneficiaries and heris
8 of Decedent's estate.

10 Plaintiffs,

12 vs. Cause No. 2019-CV-00326

14 THE MOODY BIBLE INSTITUTE
15 OF CHICAGO, and Illinois
corporation,

17 Defendant.

VIDEOTAPED AUDIO ZOOM DEPOSITION OF:
YUKI LEE

1 EXAMINATION
2 BY MR. AJELLO:
3 Q Ms. Lee, can I have you state your full name for the --
4 THE COURT REPORTER: Hold on, Mr. Ajello. Let
5 me swear in the witness.
6 MR. AJELLO: I am sorry. I jumped the gun
7 there.
8 THE COURT REPORTER: That's all right. That's
9 all right.
10
11 YUKI LEE,
12 called as a witness at the request
13 of the Defendant herein, having
14 been first duly sworn on oath,
15 did testify as follows:
16 THE WITNESS: I do.
17
18 THE COURT REPORTER: And, Mr. Ajello, please
19 stay up, you seem to be a little distant as far as speak.
20 If you can be more up into your device, I appreciate that.
21 MR. AJELLO: Sure. Let me move this a little
22 closer to me.
23 THE COURT REPORTER: Perfect.
24 Q (BY MR. AJELLO) Ms. Lee, may I have you state your full
25 name for the record.

1 that's when we started talking.

2 Q Okay. It sounds like you did have some classes
3 together. Do you remember what class that was?

4 A It was intercultural communication class.

5 Q And did you have any other classes with Austen during
6 your time at Moody Bible?

7 A I did not.

8 Q Okay. Do you recall how Austen was as a student in that
9 class you shared together?

10 A He was very involved engaging in the class and also he
11 was studying really hard in the class.

12 Q Okay. How long did you know Austen before you started
13 dating?

14 A For about two weeks.

15 Q Okay. How long did you date Austen before you were
16 married?

17 A For a year and two months.

18 Q And can you tell me when you were married to Austen?

19 A I was married to him in April of 2017.

20 Q Okay. And was your marriage to Austen your first
21 marriage?

22 A Yes.

23 Q Do you know if Austen had been married prior to becoming
24 married to you?

25 A He's never been married before me.

1 Pastor's Reference Form. Can you see that, Yuki?

2 (Exhibit No. 2 was marked.)

3 A Yes.

4 Q (BY MR. AJELLO) Okay. I think you testified earlier
5 that you're familiar with the Pastor named Jooyoung Kang;
6 correct?

7 A Yes. Yes.

8 Q Thank you. Have you ever seen this document before?

9 A I have not.

10 Q Can you tell me a little bit about Pastor Kang?

11 A He was a Pastor at New Morning Korean Church. He has
12 left already, but he has three kids; boy, girl, and then a
13 boy. He's also married and he now lives in Florida.

14 Q What about do you have any opinion as to Pastor Kang's
15 character?

16 A He is very kind, generous, considerate. He's a great
17 Pastor.

18 Q Great. And let me ask you, are you familiar with
19 Austen's signature?

20 A I haven't seen it in a long time, I'm not sure.

21 Q If I were to try to point to that, would this appear to
22 be Austen's signature to you?

23 A Yes.

24 Q Okay. Thank you. I'm going to scroll down a little
25 bit. Pastor Kang seems to note that Austen's doctrinal

1 completely sure of what your goal or job would have been
2 while you were there; is that correct?

3 A Right.

4 Q Okay.

5 MR. AJELLO: I'm going to mark another document.
6 (Exhibit No. 5 was marked.)

7 Q (BY MR. AJELLO) I'm going mark as Exhibit 5 The Moody
8 Aviation Scholarship Application for the 2017, 2018 Academic
9 Year.

10 Yuki, have you ever seen this document before?

11 A No.

12 Q Okay. Again, I'm going to show you the signature at the
13 bottom of Page 2. Does that appear to be Joochan's
14 signature?

15 A Yes (Reading).

16 Q Okay. I'm going to go back to Exhibit 3 right now to
17 see if maybe your recollection has been refreshed.

18 A Okay.

19 Q Is everybody able to see Exhibit 3? Yuki, are you able
20 to see it?

21 A I can.

22 Q Does this appear to be Joochan's signature on the
23 release we discussed earlier, which is marked as Exhibit 3?

24 A Yes.

25 Q Okay. Thank you. Going back to the application. Do

1 STATE OF WASHINGTON)
2 : ss: REPORTER'S CERTIFICATE
COUNTY OF SPOKANE)

3
4 I, d'Anne Meyers, a notary public in and
5 for the State of Washington, do hereby certify:

6 That the foregoing deposition of YUKI
7 LEE was taken on the date and at the time and place as shown
8 on Page 1 hereto;

9 That the witness was sworn upon her oath
10 to tell the truth, the whole truth and nothing but the truth
11 and did thereafter make answers as appear herein;

12 That the foregoing is a true and correct
13 transcription of my shorthand notes of the requested
14 deposition transcribed by me or under my direction;

15 That the witness' signature was waived.

16 My hand this 26th day of November 2021.

17
18
19
20 D'ANNE MEYERS,
CCR No. WA 2478
21 The State of Washington